

## REMARKS

Reexamination and reconsideration of the above-identified application are requested in view of the following amendments and remarks.

### Claims

Claims 113-125 were pending in this application. Claim 115 has been canceled, and new claims 145-154 have been added.

Accordingly, claims 113-114, 116-125 and 145-154 are now pending.

In the 26 Jan. 2006 Office Action, claim 115 was objected to as dependent on a rejected base claim (claim 113). Claim 113 has been amended to recite the limitation of claim 115 (fusion protein “comprises an amino acid sequence of SEQ ID NO:6”).

Applicants respectfully submit that claim 113, and dependent claims, are now allowable.

The 26 January 2006 Office Action stated that claim 116 was allowed. Claim 116 has been amended, above, for matters of form, and the phrase “consisting of a HER-2/neu extracellular domain fused to a HER-2/neu phosphorylation domain” has been deleted, as the recited sequence (SEQ ID NO:7) contains only a portion of the phosphorylation domain (see, eg., paragraph 39 or Figure 13 of the specification).

New dependent claims 145-154 have been added to provide a set of dependent claims for claim 116 that are complementary to the dependent claims for the other independent claim (113). Entry thereof is respectfully requested.

### Claim rejections – 35 USC § 112

Claims 113, 114 and 117-125 were rejected as failing to comply with the written description requirement, the Examiner stating that the rejection was necessitated by the addition of the limitation “at least 90% identity to SEQ ID NO:6” in base claim 113. Applicants, while not acquiescing in the rejection, have amended claim 113 to remove this language and respectfully request withdrawal of the rejection.

### Priority

The Examiner states that the two applications upon which priority is claimed do not support claims 113, 114 and 117-125, due to the recitation in the claims of “at least

90% identity to SEQ ID NO:6". Applicants, while not acquiescing in this conclusion regarding priority, have amended claim 113 to remove this language. Applicants respectfully submit that the priority applications provide adequate support for the present claims.

Claim rejections – 35 USC § 102

Claims 113, 114, 118, 119 and 121 were rejected as anticipated by US Patent 5,869,445. Applicants respectfully submit that the present amendment to claim 113 obviates this rejection, and request its withdrawal.

Claim rejections – 35 USC § 103

Claims 113, 117, 119, and 120-125 were rejected as obvious over US Patent 5,869,445 in combination with other references. Applicants respectfully submit that the present amendment to claim 113 obviates this rejection, and request its withdrawal.

Conclusion

Applicants respectfully submit that the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite prosecution of the application, please do not hesitate to call the undersigned at 919-483-1012.

The Commissioner is hereby authorized to charge any fees required or credit any overpayment to Deposit Account No. 07-1392.

Respectfully submitted,

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